

UNITED STATES DISTRICT COURT

**WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

JAMES COUDER

CIVIL ACTION

VERSUS

NO.: 3:19-cv-169

**LIFE INSURANCE COMPANY OF
NORTH AMERICA**

COMPLAINT

Plaintiff, **JAMES COUDER**, a major domiciliary of El Paso County, Texas, at all relevant times, respectfully avers:

1.

Jurisdiction is proper under the Employee Retirement Income Security Act of 1972 (“ERISA”), 29 U.S.C. § 1001, *et. seq.*

2.

Made Defendant herein is: **LIFE INSURANCE COMPANY OF NORTH AMERICA**, who upon information and belief, is a company with its place of business in the State of Pennsylvania.

3.

At all relevant times, Plaintiff was the natural father of Decedent, Kerry Dawn Couder, who at all relevant times was a domiciliary of the City of San Antonio, Bexar County, Texas.

4.

On August 11, 2018, Decedent died as a result of an accident when she fell asleep and drowned in a bath tub in a hotel in Lake Charles, Louisiana.

5.

At all relevant times, in full force and effect was an accidental death insurance policy written by Defendant, Life Insurance Company of North America, under the terms of which Decedent was an insured, and Plaintiff was designated as beneficiary.

6.

Plaintiff is clearly entitled benefits under the relevant terms and provisions of the accidental death and dismemberment policy written by Life Insurance Company of North America.

7.

Defendant, Life Insurance Company of North America both made benefits determinations and provided the funding to cover benefits under the above-referenced policies.

8.

Defendant, Life Insurance Company of North America abused its discretion and was arbitrary and capricious in denying benefits to Plaintiff, entitling Plaintiff to the recovery of attorney's fees.

9.

All legally required administrative remedies have been exhausted.

WHEREFORE, Plaintiff, **JAMES COUDER**, respectfully prays that after all due proceedings are had, there be judgment in his favor and against Defendant, **LIFE INSURANCE COMPANY OF NORTH AMERICA**, awarding him accidental death benefits, attorney's fees, judicial interest and court cost, as well as all other relief as the Court may deem proper.

Respectfully Submitted,

s/J. Price McNamara

J. PRICE McNAMARA

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